

# VEDDER PRICE

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A PARTNERSHIP INCLUDING VEDDER, PRICE, KAUFMAN & KAMMHOLZ, P.C.  
WITH OFFICES IN CHICAGO, NEW YORK CITY, AND LIVINGSTON, NEW JERSEY

November 26, 2002

## VIA FACSIMILE AND U.S. MAIL

Thomas J. Krueger, Esq.  
Associate Regional Counsel  
United States Environmental Protection Agency  
77 West Jackson Boulevard (C-14J)  
Chicago, IL 60604-3590

***Re: Ellsworth Industrial Park – Special Notice Letter***

Dear Tom:

As you know, we represent Bison Gear and Engineering Corp. ("Bison") in connection with the captioned matter. This follows the November 19, 2002 meeting between the ad hoc PRP group and USEPA/IEPA at your offices, and serves to emphasize on behalf of Bison the importance of obtaining the site specific well data relied on by USEPA, but not disclosed to Bison or to my knowledge any other recipient of the Special Notice Letter (the "Group").

Bison appreciates USEPA/IEPA's recently expressed intention to increase efforts to convey such data to the Group within the perceived constraints imposed by Federal and Illinois privacy laws and institutional parameters. Bison's interest in the data is concrete, and not merely abstract. As a recipient of USEPA's October 11, 2002 Special Notice Letter, Bison is asked, among other things, to present a good faith offer by December 17, 2002, including "a discussion of interim response measures that the PRPs may conduct to reduce or eliminate current exposures to contamination prior to implementation of the RI." Thus far, Bison has been provided only with very generalized information about alleged contamination and exposures, including color-coded aerial photographs designating certain areas as either above or below the MCL's for TCE/PCE. Among other things, this information does not reflect the number of private residences allegedly affected, the levels of contamination present, nor any information concerning such technical aspects as well screen depth, etc. Without this information, Bison is simply unable to, in good faith, address interim response measures to eliminate "current exposures" which are unknown, to "contamination" which is only generically defined.

Bison has long realized the importance of the site specific well data, an importance that has been made critical by the Special Notice Letter. On August 22, 2002, Bison submitted Freedom of Information Act requests to both the USEPA and IEPA. On September 11, 2002, I

EPA Region 5 Records Ctr.



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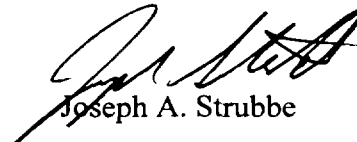
reviewed records made available by the USEPA in response to our Freedom of Information Act request. No well data was provided, site specific or otherwise. In addition, as emphasized by Ms. Kendra Pohn at the November 19, 2002 meeting with the Group, the IEPA to date, has not made the well data available.

It was stated at the recent meeting that the data sought by the PRP's would be freely available to them in the event of litigation. It is odd that the information is not available now, while the parties are working to avoid such litigation. Bison realizes that there are legal and political constraints imposed on regulatory agencies insofar as data-sharing. This situation, and the rationale for withholding the data, however, places Bison in an untenable position.

Bison appreciates USEPA/IEPA's statement that it would immediately revisit ways to share the data, but must stress that this issue has been on the table since the first meeting I attended on August 20, 2002. Absence of the data affects Bison's ability to respond to the Special Notice Letter and, frankly, the dynamics of PRP group formation necessary to presenting a meaningful collective response to USEPA's notice letter.

Bison looks forward to receiving the relevant data at the earliest opportunity so as to meet the December 17, 2002 deadline for presentation of a good faith offer in response to the Special Notice Letter.

Very truly yours,



Joseph A. Strubbe

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